

## Office of the Secretary, Education

## §21.10

pending or commenced before the Department on or after August 5, 1985.

(Authority: 5 U.S.C. 504(note))

### §21.3 Definitions.

The following definitions apply to this part:

*Act* means the Equal Access to Justice Act.

*Adjudicative officer* means the Administrative Law Judge, hearing examiner, or other deciding official who presided at the underlying adversary adjudication.

(Authority: 5 U.S.C. 504(b)(1)(D))

*Adversary adjudication* means a proceeding—

(1) Conducted by the Department for the formulation of an order or decision arising from a hearing on the record under the Administrative Procedure Act (5 U.S.C. 554);

(2) Listed in §21.10; and

(3) In which the position of the Department was represented by counsel or other representative who entered an appearance and participated in the proceeding.

(Authority: 5 U.S.C. 504(b)(1)(C))

*Application subject to the jurisdiction of the CRRRA* means an application for fees and expenses based on an underlying proceeding conducted under 34 CFR parts 100, 101, 104, 106, or 110.

(Authority: 5 U.S.C. 504(b)(1)(C); 20 U.S.C. 1681; 29 U.S.C. 794; 42 U.S.C. 2000d-1 *et seq.* and 6101 *et seq.*)

*CRRRA* means the Civil Rights Reviewing Authority, the reviewing authority established by the Secretary to consider applications under 34 CFR parts 100, 101, 104, 106, and 110.

(Authority: 5 U.S.C. 504(b)(1)(C); 20 U.S.C. 1681; 29 U.S.C. 794; 42 U.S.C. 2000d-1 *et seq.* and 6101 *et seq.*)

*Department* means the U.S. Department of Education.

*Department's counsel* means counsel for the Department of Education or another Federal agency.

*Employee* means:

(1) A person who regularly performs services for an applicant—

(i) For remuneration; and

(ii) Under the applicant's direction and control.

(2) A part-time or seasonal employee who performs services for an applicant—

(i) For remuneration; and

(ii) Under the applicant's direction and control.

(Authority: 5 U.S.C. 504(c)(1))

*Fees and other expenses* means an eligible applicant's reasonable fees and expenses—

(1) Related to the issues on which it was the prevailing party in the adversary adjudication; and

(2) Further described in §§21.33 and 21.50.

(Authority: 5 U.S.C. 504 (a)(1), (b)(1)(A), and (c)(1))

*Party* means a “person” or a “party” as those terms are defined in the Administrative Procedure Act (5 U.S.C. 551(3)), including an individual, partnership, corporation, association, unit of local government, or public or private organization that meets the requirements in §21.20. The term does not include an agency of the Federal Government.

(Authority: 5 U.S.C. 504(b)(1)(B))

*Position of the Department* means, in addition to the position taken by the Department in the adversary adjudication, the action or failure to act by the Department upon which the adversary adjudication is based.

(Authority: 5 U.S.C. 504 (a)(1) and (b)(1)(E))

*Secretary* means the Secretary of the U.S. Department of Education or an official or employee of the Department acting for the Secretary under a delegation of authority.

(Authority: 5 U.S.C. 504 (b)(2) and (c)(1))

## Subpart B—Which Adversary Adjudications Are Covered?

### §21.10 Adversary adjudications covered by the Act.

The Act covers adversary adjudications under section 554 of title 5 of the United States Code. These include the following:

(a) Compliance proceedings under title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d *et seq.*).